

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Case No.: 2:21-CR-00049-MHT-JTA
)	
WILLIAM LEE HOLLADAY, III, et al,)	
)	
Defendants.)	

ATHENS CITY SCHOOLS' MOTION FOR PROTECTIVE ORDER

COMES NOW the Athens City Schools, a non-party to the above-styled matter, by and through its attorney David McKnight, and files this Motion for a Protective Order in accordance with the Family Educational Rights and Privacy Act (20 U.S.C. § 1232g, 34 C.F.R. Part 99).

1. Athens City Schools was served with a Subpoena to Testify at a Hearing or Trial in a Criminal Case in which it was ordered to produce copies of physical, permanent education files of forty-nine (49) students.
2. The subpoenaed files are Educational Records, containing personally identifying information and other private information, the disclosure of which is governed by the Family Educational Rights and Privacy Act ("FERPA"), 20 U.S.C. § 1232g, 34 C.F.R. Part 99, and/or other applicable federal or state law.
3. A Protective Order for Discovery Materials was entered on March 4, 2021 (Document 77) which governs the use of discovery documents by defendants and defense attorneys. However, a more comprehensive Protective Order that addresses both the disclosure of Educational Records pursuant to a trial subpoena and any party's introduction of protected Educational Records at trial is necessary.

4. Pursuant to FERPA, if the Court orders that the existence of, contents of, and information provided in response to the subpoena not be disclosed by the recipient, Educational Records may be disclosed without the written consent of or notice to the students' parents pursuant to the following:
 - a. A federal grand jury subpoena and/or
 - b. A subpoena issued for law enforcement purposes.
5. In order to produce the subpoenaed records in a manner consistent with FERPA, Athens City Schools requests a Protective Order which contains the following provisions:
 - a. All Educational Records produced or otherwise disclosed, whether pursuant to a grand jury subpoena or a trial subpoena, shall be subject to the Protective Order.
 - b. Education Records, as defined in FERPA, shall not be disclosed to anyone other than the following persons: (1) the government; (2) the defendant(s) and their attorney(s) of record; (3) any employee or independent contractor of any attorney of record for the defendant(s), including a partner, associate, paralegal, administrative assistant, or investigator; (4) any expert witness retained to provide an opinion on any matter at issue in the case and (5) any other person to whom the defendant or defense attorney determines in good faith that disclosure is essential for the adequate preparation of a defense.
 - c. Any person in possession of said Education Records shall store and maintain said documents in such a way that prevents inadvertent disclosure to third parties.
 - d. If an Education Record is filed or introduced as an exhibit in any public court proceeding, the party introducing said document shall designate said document as CONFIDENTIAL – SUBJECT TO PROTECTIVE ORDER. The introducing

party shall file the document under seal in compliance with those methods set forth in Rule 5.2 of the Local Rules for the United States Middle District of Alabama.

- e. Those provisions of the Protective Order for Discovery Materials entered on March 4, 2021, (Document 77) that are not modified by any subsequent Protective Order(s) shall remain in full force and effect.

Based on the foregoing, Athens City Schools requests the Court to enter a Protective Order. A proposed Protective Order is filed herewith. The parties' position(s) on this motion are unknown.

Respectfully submitted,

/s/ David McKnight

David McKnight (ASB-6258-G63S)

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CERTIFICATE OF SERVICE

I hereby certify that on this 29th day of November, 2021, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following parties:

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